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FILED
FEB 25 2008
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. §§ 1983

Name Durden, Curtis, J Jr.
(Last) (First) (Initial)

Prisoner Number #2342066

Institutional Address P.O. BOX 67 @ San Bruno, Ca. 94066

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

Curtis J. Durden Jr.
(Enter the full name of plaintiff in this action.)

CV 08 1128

vs.

Case No. _____
(To be provided by the clerk of court)

San Francisco Sheriffs' Dept.
Michael Hennessy / C.E.O.
City & County of San Francisco
"ARAMARK CATERING" Co. 94103
(Enter the full name of the defendant(s) in this action))

**COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
42 U.S.C §§ 1983**

(PR)

[All questions on this complaint form must be answered in order for your action to proceed..]

I. Exhaustion of Administrative Remedies

[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]

A. Place of present confinement _____

B. Is there a grievance procedure in this institution?

YES (✓) NO ()

C. Did you present the facts in your complaint for review through the grievance procedure?

YES (✓) NO ()

D. If your answer is YES, list the appeal number and the date and result of the

COMPLAINT

008-1128784

1 appeal at each level of review. If you did not pursue a certain level of appeal,
2 explain why.

3 1. Informal appeal YES

4
5 2. First

6 formal level YES

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9 3. Second formal level YES

10
11 4 Third

12 formal level YES

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15 E. Is the last level to which you appealed the highest level of appeal available to
16 you?

17 YES (✓) NO ()

18 F. If you did not present your claim for review through the grievance procedure,
19 explain why.

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22 II. Parties

23 A. Write your name and your present address. Do the same for additional plaintiffs,
24 if any.

25 Curtis J. Darden

26 P.O. Box 67 @ San Bruno, Ca. 94066

27
28 B. Write the full name of each defendant, his or her official position, and his or her

place of employment.

III.

Statement of Claim

State here as briefly as possible the facts of your case. Be sure to describe how each defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any cases or statutes. If you have more than one claim, each claim should be set forth in a separate numbered paragraph.

DUE TO EXCESSIVE WATER ON THE FLOOR, AFTER REPEATEDLY ALERTING SENIOR KITCHEN DEPUTY OF THE PROBLEM, AND OFFICIAL KITCHEN SUPERVISORY PERSONEL, I SLIPPED AND BOTH FEET FELL FROM UNDER ME, AND A 280 LBS. I FELT, AND HEARD MY RIBS CRACK FROM THE PRESSURE OF THE FALL. THE PAIN WAS SO SEVERE I COULD NOT BREATHE AS IF MY LUNGS WERE PUNCTURED. I COULD DO NOTHING BUT LAY ON MY BACK FOR A LENGTH OF TIME. I WAS HURT ON MONDAY THE 4TH, AND WAS NOT GIVEN X-RAYS UNTIL THREE DAYS LATER, NOT EVEN TAKEN TO S.F. GENERAL HOSPITAL. IT WAS EXTREMELY OBVIOUS TO ALL KITCHEN WORKERS, BOTH INMATES, AND OFFICIAL STAFF, THAT SOMETHING WAS BROKEN. THEY ALL SEEN ME SLIP - AIR BURN, THEN FALL. THEY TOOK 4 DAYS TO SEE ME, AND GIVE ME PAIN-PILLS, AS IF THEY DID NOT TAKE IT SERIOUS, OR ACKNOWLEDGE THAT THIS HAD HAPPENED AT ALL. MY FEELINGS ARE THE REASON I WAS NOT TAKEN TO S.F. GENERAL IS THAT THE SENIOR KITCHEN DEPUTIES KNEW SOMETHING WAS VERY MUCH WRONG, AND THAT THEY WERE REPEATEDLY TOLD ABOUT THE WATER, AND THEY WANTED ME TO HEAL FIRST, RATHER THAN TAKE X-RAYS AT THE HOSPITAL, "COVER-UP" IS WHAT THEY ATTEMPTED... I NEED TO GO TO THE HOSPITAL STILL, BECAUSE I AM IN PAIN, AND I BELIEVE I NEED A MORE THOROUGH LOOK-OVER.

IV. Relief

Your complaint cannot go forward unless you request specific relief. State briefly exactly what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

TO BE DETERMINED LATER BY COUNSEL @ LATER DATE.

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7 I declare under penalty of perjury that the foregoing is true and correct.

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9 Signed this 16 day of February, 20 08

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11 Curtis J. Durdan Jr. 2/16/08
12 (Plaintiff's signature)
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2/16/08

The standard for "deliberate indifference" in medical care cases is the same two-part standard used in cases challenging conditions of confinement in prison. To prove deliberate indifference, you must show that (1) prison officials knew about your serious medical need, and (2) failed to respond reasonably to it. *ESTELLE*, 429 U.S. at 104. *Gutierrez v. Peters*, 111 F.3d 1364, 1369 (7th Cir. 1997). To increase your chances of receiving proper care, and succeeding in a constitutional challenge to your medical care, you should keep careful records of your condition, and your efforts to notify prison officials. Take advantage of sick-call procedures at your prison, and report your condition, even if you do not think officials will help you. Although courts will not find "deliberate indifference" just because a prison "should have known" that you had a serious medical need, they will assume that prison officials knew about your condition when it was very obvious. *FARMER v. BRENNAN*, 511 U.S. 825, 842 (1995).

- Courts most often find deliberate indifference when:
- * a prison doctor fails to respond appropriately, or does not respond at all to your serious medical needs
 - * prison guards or other non-medical officials intentionally deny or delay you access to treatment.
 - * or when these same non-medical officials interfere with the treatment that your doctor has ordered.

ESTELLE, 429 U.S. at 104-105; MELOY v. BACHMEIER, 302 F.3d 845, 849 (8th Cir. 2002).

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
* — DISTRICT OF CALIFORNIA — *

Curtis Durden Jr.

Plaintiff

San Francisco Sheriff's Dept.
Sheriff Michael Hennessy C.E.O.
City and County of San Francisco
"ARAMARK FOOD SERVICE" et al,

Defendants

TEH
SUMMONS
CV 08
Civil Action No. 1128
Filing (PR)

— SUMMONS —

TO THE ABOVE-NAMED DEFENDANTS:

You are hereby summoned and required to serve upon plaintiffs, whose address is [P.O. BOX 67 @ San Bruno, Ca. 94066] an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service, or 60 days if the U.S. Government or officer / agent thereof is a defendant. If you failed to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Clerk of the Court

Date 2/16/08

RE: New Litigation

2/16/08

Durden VS. S.F. Sheriff & Aramark Foods

CV 08 1128
Dear Sir/Ma'am,

please have U.S. Marshals
deliver the SUMMONS, and the **TEH**
COMPLAINT for me. I am incarcer-
ated, and I am in need of a courier
and an attorney also.

(PR)

Sincerely

E-1128

Curtis Durden Jr.

2/16/08

Curtis J. Durden #2342066 - #2342066
P.O. BOX 67
San Bruno, Ca. 94066

RECEIVED
FEB 21 2008
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

United States District Court
450 Golden Gate Ave Box 36060
Clerk of the Court - Richard W. Wieking
FEDERAL BUILDING @ Downtown
San Francisco, Calif. 94102

